

## Legislative Update OCTOBER 2020\*

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### **NEW YORK REINSTATES ELECTION LAW REQUIREMENTS AND NOTICE FORM**

As explained in MVSHRM's June 2019 Legislative Update, in the Spring of 2019 the State of New York amended Election Law § 3-110 and created a new Notice form for employers to post concerning employee rights to "time off from work" to vote. However, in the Spring of 2020, New York reinstated the State's previous Election Law requirements and published a new Notice form.

New York's Election Law § 3-110(4) provides as follows: "Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day."

The updated Notice form for employers to post in advance of elections occurring in 2020 and later can be found here: <https://www.elections.ny.gov/NYSBOE/elections/TimeOffToVoteNotice.pdf>.

Also, the State issued guidance in 2020 concerning New York State Voting Leave Rights which can be found here: <https://www.elections.ny.gov/NYSBOE/elections/TimeOffToVoteFAQ.pdf>.

The basic eligibility rules for employees to take time off from work to vote are as follows:

"Generally, New York State employees are eligible for up to two hours of paid time off to vote if they do not have 'sufficient time to vote.' An employee is deemed to have 'sufficient time to vote' if an employee has four consecutive hours to vote either from the opening of the polls to the beginning of their work shift, or four consecutive hours between the end of a working shift and the closing of the polls.

For example, if an employee is scheduled from 9 am to 5 pm, and the polls are opened from 6 am to 9 pm, the employee is not eligible for paid time off to vote, because the polls are open for four consecutive hours after the employee's shift ends at 5 pm. However, if an employee is scheduled to work from 9 am to 6 pm, then the employee is eligible for paid time off to vote, because the employee only has three consecutive hours off in the beginning of their shift and end of their shift."

Editor's Note: Because an election will be occurring on November 3, 2020, employers are encouraged to post the Notice in late October 2020 and to follow all the requirements of this law.

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